

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

W. R. GRACE & CO.-CONN.,

Plaintiff,

v.

ELYSIUM HEALTH, INC.,

Defendant.

C.A. No. 20-1098-GBW-JLH

**PLAINTIFF’S MOTION FOR TELECONFERENCE TO
RESOLVE DISCOVERY DISPUTE**

Plaintiff W. R. Grace & Co.-Conn (“Grace”) respectfully moves this Court to schedule a teleconference to address outstanding disputes regarding the following discovery matters:

- Whether Dr. Marie Migaud, a third party represented by counsel for Defendant Elysium Health, Inc. (“Elysium”), is an expert witness who may properly withhold documents and things responsive to Grace’s subpoena to her, including but not limited to communications between Dr. Migaud and Elysium’s counsel, pursuant to Fed. R. Civ. P. 26(b)(4)(C), 26(b)(3)(A)-(B).
- Whether Defendant Elysium Health, Inc. (“Elysium”) can shield Dr. Migaud from discovery by asserting Dr. Migaud is its expert after representing to Grace that “[w]e believe that the information contained in Dr. Migaud’s declaration is fundamentally factual.”

The parties have exchanged numerous emails and have participated in multiple meet-and-confers via telephone/video conference concerning this dispute, including on December 19, 2022 and February 24, 2023. The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in the meet-and-confers:

Delaware Counsel

For Grace: Daniel O’Brien.

For Elysium: Steven Balick

Lead Counsel

For Grace: James R. Tyminski, Natalie Lieber.

For Elysium: Nathaniel J. McPherson

The parties are available for a teleconference on the following dates and times:

- March 27: 10:30 am -12:00 pm, 1:30 pm - 3:00 pm EDT
- April 3: 1:30 pm - 4:15 pm EDT
- April 4: 12:00 pm to 2:00 pm EDT

Dated: March 17, 2023

VENABLE LLP

/s/ Daniel A. O'Brien

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CERTIFICATE OF SERVICE

I, Daniel A. O'Brien, hereby certify that on this 17th day of March, 2023, a copy of the foregoing document was electronically filed with the court and served via CM/ECF, on parties with counsel of record identified on the Court's docket.

/s/ Daniel A. O'Brien
Daniel A. O'Brien (No. 4897)